

Remarks

Applicants thank the Examiner for the courtesies shown Applicants' representative during the March 14, 2005 telephone interview.

The Amendment cancels claims 1 and 3-19, and adds claims 20-38. Claims 20-38 are pending in the Application.

Claims 20-38 represent claims 1-19 as amended in the July 15, 2003 Amendment. Accordingly, Applicants address below the rejections of the August 18, 2003 Office Action.

THE 35 U.S.C. §103 CLAIM REJECTIONS

Under 35 U.S.C. §103, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in a reference itself or in knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, a prior art reference, or references when combined, must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, and not based on Applicants' disclosure.

The Office Action rejects claims 1-19, now re-written as claims 20-38, under 35 U.S.C. §103(a), as being unpatentable over DT 2617364, in view of Craft *et al.* Applicants respectfully traverse this rejection. DT 2617364 and Craft *et al.* do not render obvious claims 20-38.

The invention of claim 20 is, in pertinent part, a vent for septic system comprising a leg configured to mount on, conceal a portion of and convey gas from a conduit extending from the septic system. The invention of claim 32 is, in pertinent part, a method of concealing a conduit extending and conveying gas from a septic system comprising sizing the conduit then mounting a leg on the conduit. In claims

20 and 32, the leg is configured for mounting a fixture thereon. The specification describes a fixture 300 at paragraph 33 and depicts same in Figs. 2-6.

In contrast to the inventions of claims 20 and 32, DT 2617364 shows a mushroom-shaped vent mounted on and conveying fluid from an outlet.

A difference between the disclosure of DT 2617364 and the inventions of claims 20 and 32 is that the DT 2617364 mushroom is not configured for mounting a fixture thereon.

A significance of this difference is that the DT 2617364 mushroom cannot accommodate interchangeable ornamental objects, like bird baths, gazing balls, etc. As described in the specification at paragraph 4, the invention is intended to aid homeowners in hiding or disguising unsightly septic system vent pipes rising out of their yards. While the DT 2617364 mushroom may be able to hide a septic vent pipe, in view of the state regulations mentioned in the specification at paragraphs 2 and 3, some embodiments of the DT 2617364 mushroom would have to be quite tall to vent gases at a prescribed height, thus presenting a gargantuan mushroom that would be just as unsightly as the septic system vent pipe that is intended to be hidden discretely.

Alternatively, while a homeowner could place a sundial or gazing ball on top of the DT 2617364 mushroom, the DT 2617364 mushroom has no provision for mounting such ornaments thereon, therefore maintaining the sundial or gazing ball on the DT 2617364 mushroom would be problematic. Even if the sundial or gazing ball were to remain in place, the combination of a sundial or gazing ball on top of a gigantic DT 2617364 mushroom would not present an aesthetically satisfying installation. The invention of claims 20 and 32, on the other hand, provide for aesthetically hiding and functionally venting a septic system vent pipe, as well as affording a homeowner ornamentation choices that the DT 2617364 mushroom does not.

Craft *et al.* does not remedy the deficiencies of DT 2617364.

DT 2617364 and Craft *et al.* contain no motivation to modify the respective disclosures to achieve, have little likelihood of achieving, and do not teach or suggest all the claim limitations of the invention of claims 20 and 32, therefore claims 20 and 32 and claims 21-31 and 33-38 dependent therefrom are allowable over DT 2617364 and Craft *et al.*

This Amendment is responsive to the August 18, 2003 Office Action. The Amendment does not add new matter. The Amendment does not raise new issues that require further consideration and/or searching and is a *bona fide* effort to conclude prosecution of this Application. Applicants respectfully request entry and favorable consideration of the Amendment.

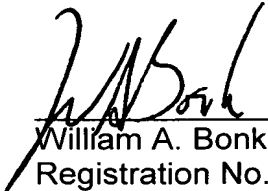
Entry of the Amendment is proper under 37 C.F.R. §1.116 because the Amendment: (a) places the Application in condition for allowance; (b) does not raise any new issue requiring further search and/or consideration; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; and/or (e) places the Application in better form for appeal, should an appeal be necessary. The Amendment is necessary and was not presented earlier because the December 9, 2004 Office Action prompted same.

Applicants respectfully submit that this Application is in condition for allowance. If such is not the case, Applicants invite the Examiner to contact the undersigned to resolve remaining issues.

Application Serial No. 10/073184
Amendment dated March 17, 2005
Reply to Office Action dated December 9, 2004

This paper was not filed within the shortened statutorily-prescribed time limit, thus is accompanied by a petition for the appropriate time extension and required fee. If filing this paper or any accompanying papers necessitates additional fees not otherwise provided for, the undersigned authorizes the Commissioner to deduct such additional fees from Deposit Account No. 19-2110.

Respectfully Submitted,



William A. Bonk, III
Registration No. 40,521

Shoemaker and Mattare, LTD
10 Post Office Road
Silver Spring, Maryland 20910
301/589-8900 (voice)
301/589-8885 (facsimile)

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